

# LAFCO of Napa County

*Local Agency Formation Commission*

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## MEMORANDUM

May 8, 2003

**TO:** Local Agency Formation Commission

**FROM:** Keene Simonds, Analyst

**SUBJECT:** Comprehensive Study of American Canyon: Service Review  
*Santa Clarita Organization for Planning the Environment v. County of Los Angeles*

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At the April 10, 2003 meeting, the Commission advised staff of a recent court decision in Southern California rescinding an environmental impact report (EIR) due to its application of State Water Project (SWP) entitlements in its water supply analysis. The Commission remarked that the case could prove useful to staff in its analysis of American Canyon's water system - specifically as it relates to the City's ability to accommodate future water demands.

The case involved an appeal filed by the Santa Clarita Organization for Planning the Environment (SCOPE), asking the Second Appellate District Court to reverse a lower court's decision not to vacate the certification of an EIR. Certified by the County of Los Angeles, the EIR was prepared for a proposed residential and commercial development project in Santa Clarita Valley. SCOPE claimed that the EIR prepared for the "West Creek" development project did not adequately address the issue of whether there was a sufficient water supply for the proposed project. Specifically, SCOPE argued that the EIR's analysis of the available water supply for the affected water supplier was based largely on future entitlements drawn from the State Water Project (SWP). SCOPE claimed that the EIR did not properly distinguish between the affected service provider's entitlements and actual deliveries.

The District Court agreed with the Appellant. The Court ordered the lower court to vacate the EIR and retain jurisdiction until the County certifies an EIR complying with the requirements of the California Environmental Quality Act. In its findings, the Court stated the EIR made no attempt to calculate the differences between entitlement and actual supply. In addition, the EIR's water supply analysis assumed 100% delivery of SWP entitlement for long-term planning purposes without substantiated evidence or analysis. The Court stated that the EIR erred by not including estimates by the Department of Water Resources as to how much water the SWP can actually be delivered in wet, average, and drought years.

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Although it does not directly impact LAFCO's *Comprehensive Study of American Canyon*, the case underscores the importance of differentiating between entitlement and actual supply. In addition, this and other recent cases highlight a growing expectation by the courts that EIR's prepared for development projects clearly demonstrate the sufficiency of available water supplies prior to certification.

Noting that the topic was germane to the Commission's discussion regarding American Canyon's reliance on SWP entitlements to meet current and future water demands, the Commission asked